

Elections Observer Group for the Vanuatu 2002 National Elections: the Common Interest in Ethical Politics

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Abstract

This paper discusses the establishment, conduct and results of the Vanuatu National Elections 2002 as observed by the Vanuatu Elections Observer Group (EOG). The initial assessment of the likely character of the elections, the composition of the EOG and its terms of reference are described. The methodology of EOG is outlined, and the public awareness campaign and the survey of voters are detailed. Finally, major conclusions and recommendations are summarised and the implications of this case study for the future work of Transparency International (TI) are discussed.

Initiation and Composition of EOG

TI is committed to tackling corruption wherever it impacts upon communities in ways that erode public confidence in the institutions that have been designed to secure peace, political freedom and democracy. On 1 April 2002, Dr Shirley Randell was appointed by the TI Vanuatu Board to prepare project proposals that would attract funding for the newly formed Chapter to fight corruption in Vanuatu. She was asked by the TIV Board to seek volunteers from overseas who could train ni-Vanuatu staff for education projects and media work, and to develop projects that would have some education value. The initial task was to contact Transparency International Chapters in the Pacific and volunteer agencies, such as the Australian Youth Ambassadors, to see if they could recommend volunteers and provide funds. TI Australia immediately responded and Dr Barbara-Ann Butler, Director Public Affairs was able to assist for a week from 8 April and three subsequent weekends.

A program of visits to relevant government agencies and each of the high commissions and embassies had been organised and Dr Butler accompanied Dr Randell on these visits. The first meeting was with the Ombudsman. We asked the question "Are you aware of corruption involved in the upcoming election?" He replied, "Of course there is and I think it would be an excellent idea if we could form an EOG of local people to look into this matter". Our second visit was to the Electoral Commission where the Chairman greeted the idea of an EOG enthusiastically but suggested that overseas observers also be included. At the TIV Board meeting held on the same day, members of the Board spoke about personal experiences of corruption and endorsed the proposal to establish an EOG.

Armed with this information and a tentative proposal the diplomatic missions were approached to see if there would be interest in funding the establishment of an EOG for the Vanuatu national elections, which were to be held on 2 May 2002, only three weeks away. At first the diplomats were reluctant. Earlier in the year the European Union (EU) had visited the country and discussed their willingness to organise and fund an EOG if the Government and Opposition would support it. The EU did not receive bipartisan endorsement and the missions were reluctant to respond without this commitment. However, they said they would consider a specific request from the Prime Minister. Simultaneously, Ms Yvette Sam, President of TIV met with the Prime Minister to seek his approval. Once the Hon Edward Natapei gave his unqualified support for the establishment of an EOG and invited neighbouring governments to assist, the missions were happy to participate. The Australian, New Zealand and British Governments jointly funded the project, with Australia providing additional funds to furnish the TIV office, which was used as a base for the EOG. The European Union funded publicity for the campaign and TI Headquarters in Germany organised

funding from the German development agency to cover the airfares for Dr Butler's visits to Vanuatu.

It is relevant to note that Vanuatu is in a pivotal position in the current "arc of instability" and corruption in the Pacific. Vanuatu is a tax haven and considered by many to be a centre for money laundering. It is sandwiched between Papua New Guinea and Solomon Islands, both nations severely affected by a breakdown in law and order, and Fiji Islands where there have been two recent political coups and racial violence. Kanaky people are still struggling for independence in the French colony of New Caledonia. There is international interest in supporting Vanuatu to fight against corruption and maintain its position as the one Melanesian country on the Pacific Rim that is relatively free from racial tension and civil disorder.

Thus the EOG was formally established on 29 April 2002 with the purpose of reducing the potential for electoral fraud and bribery associated with the national elections. The initiative was the result of pressure from citizens and organisations concerned to ensure free and fair elections. Nine of the 12 observers appointed were distinguished citizens of Vanuatu – representing chiefs, churches, police, business, education, non-government organisations, women and youth, and including the Ombudsman. Members included men and women, Anglophone and Francophone, and came from every Province in Vanuatu. A request was made of TI Chapters to suggest possible external observers. TI Papua New Guinea's President, Sir Anthony Siaguru, former Minister of Government, and TI New Zealand's Treasurer, David Oughton, former Head of the Justice Department were willing to come at short notice. The Australian Government nominated Greg Urwin, former High Commissioner of Vanuatu, Fiji Islands and Samoa. All three had significant experience in observing elections in the Pacific and elsewhere.

Terms of Reference of EOG

The group assembled in Vanuatu for the elections week. They were thoroughly briefed by the Electoral Commission and the Principal Electoral Officer (PEO). Their agreed goal was to observe the electoral process in Vanuatu during the 2002 national elections with a view to making an informed judgment about citizen awareness of their electoral rights and capacity to participate in a free and fair election. Specific objectives included:

- To observe freedom of movement, assembly and association on and before polling day
- To observe whether there is freedom from threats and intimidation
- To observe what arrangements exist to ensure that citizens are able to cast their votes in a managed environment, free from threats, harassment, or intervention
- To produce a Report to the Chairman of the Electoral Commission for presentation to the new Government on completion of the mission. This Report would represent the collective opinion of all members of the Group, each of whom was required to submit an individual report. This Report would include comments on institutional, procedural and other matters as would assist in the conduct of future elections
- To make the findings of the Report public so as to enable the authorities to act upon any recommendations contained within the Report
- To provide a benchmark for electoral observation in Vanuatu.

EOG's Initial Assessment of the Likely Character of the Elections

EOG had the following initial concerns about the Elections:

- There had been instances of electoral fraud and bribery in previous elections but none had led to conviction in the courts
- The Electoral Commission was significantly under-resourced, having insufficient funding to undertake a national public education campaign informing citizens of their basic democratic rights and freedoms.
- There was no formal register of births, deaths and marriages and other data that are conventionally employed to validate electoral rolls and it was feared the electoral roll was fundamentally flawed.
- The unicameral electoral system with 52 MPs elected by popular first past the post voting in multiple seat constituencies appeared to contribute to aggressive campaigning by 17 political parties and 30 independent candidates
- There had been considerable political and policy instability with six governments in the past seven years
- The Government had been less than transparent in recent years and Prime Ministers had ignored the Ombudsman's findings and recommendations following investigations into official corruption that were meant to promote principles of good governance.
- The lack of human resources in various parts of the legal system had led to significant non-productivity and the failure to achieve successful prosecutions for criminal activity.
- The post of Police Commissioner had been vacant for more than 12 months.
- A review of the independence of the media and their capacity to be critical of any candidates who might be considered unfit for public office was not encouraging.
- Isolated incidents of electoral-related violence added to concern that citizens might not have freedom to engage in the voting process without fear of intimidation or harassment
- It was considered that many citizens might not be aware of the consequences of electoral fraud and bribery and might be unwittingly involved in fraudulent practices.

Public Awareness Campaign

The lack of resources to enable EC to manage a national public election campaign, and community concern over a perceived lack of voter awareness of their basic democratic rights and entitlements, led to TIV's decision to conduct its own short, sharp anti-corruption campaign. The target audiences were voters, political parties, politicians, electoral officers, police, chiefs, public officials and journalists. The strategy was to focus on the nature of offences, to inform voters and politicians about penalties for electoral fraud and to explain the consequences of corruption upon democratic practices.

Letters were sent to all political parties contesting the election, asking them to publicly state their support for a 14-point list of democratic principles and practices. Not one response was received. Dr Butler conducted roundtable sessions with the media to evaluate their independence and capacity to function as watchdogs of democracy and decide what strategy and tactics to adopt. We ultimately decided to combine paid advertising to give some control over content, and media coverage generated by media releases, media conferences and staged events. A four-page

advertising supplement outlining the activities that constitute electoral fraud and the penalties applicable under the law was prepared and published to build a public agenda. A range of media releases was prepared which were published in the press, radio and television and create a campaign news agenda. Media conferences and interviews on set topics were organised for the Chairperson of EOG, the Chairman of the Electoral Commission and the President of TIV. Media coverage of EOG highlighted the expertise of the group, reported on the official opening of TIV offices, and the Prime Minister's welcome of EOG members as well as detailing the itinerary and program for the EOG. These staged events built a visible presence to deter electoral fraud and violence. Coalitions with other groups running electoral campaigns, such as the Regional Rights Resource Team, Wan Smolbag Theatre and the Ombudsman's Office also generated awareness.

The media campaign influenced the political process by initiating coverage of issues, reporting progress and providing citizens with a diversity of news and views that promoted informed political judgement. The survey conducted on polling day showed that more than 85 percent of voters who participated in the survey had been exposed to the messages in the media, indicating the success of the TIV and other electoral awareness campaigns.

Methodology of EOG

Considerable problems and risks were involved in the work of the EOG. From its inception it operated with a zero budget and had to rely on personal finances until funding from aid donors came through. There were considerable time constraints and a lack of expertise and experience - it was the first time the Executive Officer had led and managed an EOG venture. There were risks of accusations of foreign interference and further destabilising an unstable political situation, increasing violence in the community and some personal physical risk in being publicly involved. Nevertheless the prompt responses to our call for help from other TI Chapters and the capacity to use the Internet to download information about Guidelines for EOGs from the Commonwealth Secretariat and the International Institute for Democratic and Electoral Assistance (IDEA) were reassuring.

The Review covered six days in Vanuatu from 29 April to 4 May 2002. Five members of EOG were assigned to Tanna, Santo, Luganville and Malekula, three to Efate and two teams of two to Port Vila. EOG members observed the last day of the Elections campaign. On the day before the Elections observers travelled extensively to familiarise themselves with the location of polling stations and to organise travel where necessary to the more remote stations at which they were observing polling the next day. EOG was given access to all parts of the voting process on Election Day: the opening of the polls, voting, polling station closures, preliminary counting, transfer and security of the ballot boxes, and the announcement of the preliminary results. The team saw the opening and closing of voting at polling stations and followed the sealed ballot boxes from the polling stations to the counting centres.

EOG members made use of checklists at each of the 59 polling stations they visited in six of the most populous constituencies. They recorded their observations and wrote individual and team reports. Several of the Port Vila based members watched part of the final count by the Electoral Commission. Members' comments collectively formed the basis for an analysis of the electoral process and the recommendations

contained in the EOG Report. Six local EOG members also conducted a voters' survey to assess voters' awareness and experience of electoral corruption.

Survey of Electoral Fraud

It was believed that a structured questionnaire about electoral fraud would assist in gauging the effectiveness of the EC-TIV campaign to warn voters about electoral fraud and test voter awareness of electoral corruption. It was also considered that the survey would enhance the visible presence of the observers, and give an indication to both citizens and presiding officers that the Electoral Commission was serious in its efforts to reduce electoral malpractice.

A total of 136 voters in three constituencies agreed to participate in the survey on Election Day, 2 May 2002. The respondents were from three constituencies, being the two most populous ones (Port Vila, the capital of Vanuatu and the island of Tanna) and the fourth most populous (rural Efate) which collectively represented 41 percent of voters who elect one third of the MPs making up the national Parliament. Respondents to the survey were asked six questions, one relating to electoral awareness, two about bribery, two relating to experience and knowledge of violence and one about electoral cards. Each question required a YES or NO response for reasons of manageability, ease of comprehension and collation of data for observers engaged in multiple tasks. If a respondent answered YES to any question other than the first question, the observer was authorised by EC to pursue any issues raised, including alleged electoral malpractice.

Eight percent of women voters who responded to the survey in Tanna and 25 percent of women respondents in Efate knew other individuals who had been offered bribes in return for votes. Up to 20 percent of all respondents to the survey claimed they had been subjected to electoral violence and up to 14 percent claimed to know others who had been threatened or intimidated by political activists during the 2002 campaign. While most of the women who claimed to have experienced violence informed observers that they were verbally harassed and abused, male complainants reported that some activists had physically threatened them and/or their families. Some voters reported fighting among men in villages. A small but significant number of voters complained of specific threats made against their person, their property or their livelihood during the campaign. The survey provided basic evidence in support of the EOG's recommendations for electoral and administrative reforms.

Conclusions of the Report

The checklists of polling stations and surveys of electors were analysed and a draft report was compiled. Overseas observers commented by email and Port Vila based members of EOG met three more times to review drafts of the report. The Chairperson presented the final report to the Chairman of the Electoral Commission in the second week of June 2002.

The conclusions of the EOG summarised below fall into four main categories – comments on citizen participation in democracy, inadequacies of the electoral system that contribute to corrupt political practices, weaknesses in the Electoral Act that make the system vulnerable to electoral corruption, and an urgent need to resource the Electoral Office to enable it to conduct free and fair elections.

Citizen Participation in Democracy

- The people of Vanuatu should be congratulated for the orderly and disciplined manner in which they conducted themselves on Election Day in exercising their right to choose the representative of their choice.
- Registered voters were eager to participate. In the larger polling stations, long queues emerged before the official commencement of voting.
- The presence of observers, both national and international was well received by the political parties, candidates and voters.
- Polling officers, political party observers and police officers were cooperative, helpful and willing to share information.
- By and large the atmosphere was peaceful and the secrecy of voting was assured.

Inadequacies in the Electoral System

- The electoral roll is fundamentally flawed and is a major contributor to electoral fraud.
- There are major problems with the security and safety of electoral cards, many of these issues being outside the capacity of EOG to observe.
- Although polling procedures were generally understood and followed, there were significant exceptions, and the set of instructions for elections and arrangements for training of staff for polling stations were inadequate.
- The preliminary count was generally thorough and transparent although the official counting process was necessarily slow, and the mistake over three constituencies in the announcement of results was problematic. The resultant publicity arguably damaged the credibility of the Electoral Commission.
- Voter education and awareness could be improved.
- There is a need for ongoing capacity building and institutional strengthening, including education programs for new MPs to heighten awareness of their responsibilities to the community and the role of the media in providing a forum that contributes in a positive way to free and fair elections and the democratic process.

Weaknesses in the Electoral Act

- The legislation in relation to elections in Vanuatu needs immediate review and strengthening, especially in relation to eligibility of candidates and voter registration.

Limited Resources in the Electoral Commission and Electoral Office

- The Electoral Commission and Electoral Office are grossly under resourced, both in relation to staffing and physical facilities, and need immediate review and strengthening.

Recommendations

Key recommendations of the EOG are briefly recorded below.

Reviewing Legislation

- The Electoral Law should be reviewed as a matter of urgency.

- The law should be strengthened to make ineligible the candidature of habitual criminal offenders, those who have been convicted of corrupt electoral practices and people with significant debts.
- Enrolment criteria for voter registration should be reviewed to reduce electoral fraud.
- Legal provision should be made to encourage and support women to stand for election and to participate in the political life of the country.
- USP Law School should contribute to a review of the *Representation of the People Act* by following up relevant aspects recommended in this report.

Prosecuting Electoral Fraud

- The Commissioner of Police should rigorously investigate allegations of electoral fraud and Public Prosecutor's Office should be resourced to prosecute offenders.

Strengthening the Electoral Commission and Electoral Office

- The role of and functions of the Electoral Commission under the *Constitution of the Republic of Vanuatu* should be independent from political interference.
- The PEO should be independent of political control and other outside influence.
- The Electoral Commission's resources should be strengthened. The Treasurer should be required by law to ensure adequate resources are available for the Electoral Commission and PEO to carry out their duties, and these should be indexed for inflation.
- Consideration should be given to appointing a legal officer to the staff of the Electoral Commission.

Reviewing Electoral Roll and Electoral Cards

- Measures to instil confidence in the registration process should be initiated. There should be a complete review of the electoral roll, with technical assistance requested where necessary. The Electoral Commission should complete the vetting of the register of voters well in advance of the next election. The roll should be regularly reviewed and updated as a matter of urgency.
- The administration of birth and death certificates should be improved and linked with the electoral roll to help to ensure the integrity of the voters list.
- The system of proxy voting should be reviewed, as it appears to be associated with fraudulent electoral activities.

Supporting Election Coordinators and Polling Staff

- The selection and appointment of returning officers for each constituency should be transparent and free of outside influence.
- Written rules and regulations covering all electoral procedures should be reviewed.
- Properly structured induction courses or seminars on the role, duties and functions of each official should be conducted, so that there is a clear understanding by such officials of their roles and responsibilities.

Preparing Polling Stations

- Polling stations should be prepared in advance of polling day to ensure adequate space and lighting. They should be inspected immediately prior to polling day to ensure these provisions have been met.

- A range of improvements to polling stations should be made to facilitate ease of voting.

Improving Polling Process

- A range of improvements to identification of voters, ballot papers and verification of voters should be made to facilitate the polling process.

Improving Counting Process

- The Electoral Commission in future should conduct counting at the provincial level in order to instil further confidence in the electoral process.
- Counting hours at both preliminary and final counting should be set to ensure observers could be present.
- Regular meal breaks should be scheduled to avoid inaccuracies arising from fatigue.

Improving Security

- The Electoral Commission should collaborate with the Commissioner of Police to implement a range of procedures to improve security of voting, transporting the ballot boxes and counting the votes.

Monitoring Candidates' Expenses

- There should be regulations on the use of MP Allocations; guidelines set to ensure transparency and accountability in the use of funds, and regular reporting to the public.

Increasing Electoral Education and Awareness

- Elections should be preceded by a comprehensive voter education and awareness campaign, directed at the rural and outer lying island populations as well as the urban-based population.
- The Electoral Commission should seek donor funding for a citizenship education program from primary school through to adult education, with a special program for 18 year olds.
- The Electoral Commission should collaborate with TIV and other agencies to undertake more election-related campaigns.

2006 Elections

- The Government of the Republic of Vanuatu should consider inviting a second EOG to participate in the 2006 national elections.

Report Follow-up

- Coordinators of elections in the Provinces and the general public should be asked to comment on the findings of the EOG Report to the Electoral Commission so they can further clarify problematic areas.
- The Electoral Commission in collaboration with aid donors should undertake research into issues of electoral fraud, particularly in relation to the electoral role, the influence of political parties and the roles and relationships between kastom and democracy.
- This Report should be translated into French and Bislama and made widely available so that all citizens have access to the information in the Report.

- The media should be invited to publish the Report in serial form and to follow up recommendations as a matter of public interest.

Summary

The Government of Vanuatu is to be commended for having the foresight and courage to establish the EOG. This is in marked contrast to Papua New Guinea, where the offer of an EOG was refused. In that country shocking corruption and tragic violence took place over the election period only two months later. At least 23 people were killed, at least nine women were raped, ballot boxes were stolen, tampered with, or destroyed, voters were intimidated, the Chairman of the Electoral Commission went into hiding, and troops were deployed to trouble spots to help police provide security so the elections could be completed. In the search for good governance in Vanuatu, we should be determined that such problems do not become our future.

The collaboration between the Government, the Electoral Commission and TIV depended on relationships of mutual trust and respect between the Prime Minister, Hon Edward Nipake Natapei, Chairman EC Mr Sethy Regenvanu, and the President TIV Ms Yvette Sam. The Transparency International network across the Pacific proved helpful in identifying international observers, Sir Anthony Siaguru, President TI PNG and Mr David Oughton, Treasurer TI NZ. TI Australia's Dr Barbara Butler designed an effective media campaign and assisted in the voter survey analysis. The competence and networks of Executive Officer Dr Shirley Randell were important in facilitating the observation process, data analysis and report writing. The calibre and professionalism of the Chairperson EOG, Pastor Willie David Saul and each of the observers, and the respect they had within the community were key factors in the EOG's success.

The project was conceived four weeks before Election Day. Its effective implementation would not have been possible without very prompt consideration by all donors and tolerance for uncertainty about the budget. There were no models of similar EOGs, apart from enormously expensive international operations. The Australian, British and New Zealand High Commissions, the European Union and the Bundesministerium für Wirtschaftliche Zusammenarbeit (BMZ) contributed generously.

EOG's presence and effective publicity from the media assisted in the reduction of electoral fraud and violence during the 2002 National Elections. Implementation of the EOG's recommendations will be necessary to keep Vanuatu's future elections free and fair. The EOG's Report will be widely distributed, following its consideration by Government. Full consultation is expected. The establishment and operation of the Vanuatu Elections Observer Group has become a benchmark for future EOGs in Vanuatu and indeed the Pacific. It is hoped that the Government will repeat the exercise in 2006 and make an assessment of the effectiveness of the implementation of the EOG's recommendations.

There are also implications for TI's work as a non-government agency fighting corruption worldwide. Its contribution to mounting this successful exercise with such little notice in response to a crisis call and so effectively, using the resources of its members, is a model for future support to other EOG's, particularly in small island states.